

A brief to the
Standing Committee on Justice and Human Rights
on the review of the
Protection of Communities and Exploited Persons Act
S.C. 2014, c.25 (PCEPA)

by Lifeworthy - SIM Canada

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Dear Honorable Members of the Committee,

We, at the Lifeworthy Project in the Greater Toronto Area, are passionately concerned with current gaps in protection for commercially sexually exploited women and girls, especially as it relates to the implementation and enforcement of the Protection of Communities and Exploited Persons Act. We will describe some of the important steps that led us to this place, and we will share from our observations in our work with exploited persons and their family members.

RELEVANT HISTORICAL FACTORS

The Protection of Communities and Exploited Persons Act (PCEPA) was the Canadian government's response to a successful Charter challenge that determined some of the federal law pertaining to prostitution was unconstitutional. The 2013 Supreme Court ruling decided that the criminal code infringed on the rights of some prostitutes, potentially posing a barrier to their safety.

The ruling was not that legal prostitution was right for Canada. Not even the applicant's attorney claimed, in his Supreme Court submissions, that such a change would increase general safety for prostitutes. As a matter of public interest, the Chief Justice suspended the ruling for a full year to give Parliament time to come up with a legal scheme that would be more helpful than the old one. The rationale for the delay was that the infirm and potentially dangerous laws were a safer bet than a sudden shift to unfettered prostitutionⁱ.

In an earnest response to the ruling, the then Justice Minister MacKay declared that the government had "grave concerns about the exploitation that is inherent in prostitution and the risks of violence posed to those who engage in it." He went on to promise new laws to "protect human dignity and the equality of all Canadians by discouraging prostitution."

The promised legislation was tabled the following June and proposed, not merely to discourage some of the prostitution-related activities but to also make the act of prostitution illegal. Mr. MacKay, correctly defended the bill in saying, "No model that involves full decriminalization or legalization will ever make prostitution a safe endeavour." PCEPA came into force in 2014.

The heart of the legislation was the goal of reducing the incidence of human trafficking by discouraging sex buyers from funding that horrific crime. However, we have not been able to find evidence that the moratorium on buying sex, along with the other provisions laid out in PCEPA, have produced a quantifiable reduction in the volume of prostitution or human trafficking involving minors or adults. Further to that, it's difficult to measure whether the current laws have made the sex trade safer, however, prostitutesⁱⁱ are finding it easier to call police when violence has been perpetrated against them.

Though PCEPA has not cured the ills it sought to address, one must not rush to conclude that the blame lays with the legislation. It is essential that you analyse how effectively PCEPA was implemented and enforced by the provinces. The enactment of the legislation should have sparked a swift and supportive reaction by your provincial counterparts and their law enforcement agencies. But instead of embracing the protections for vulnerable women and girls, the provinces seemed to prefer the former legislation that viewed them as a nuisance. Ontario did eventually react in its own fashion and allocated hundreds of millions of dollars toward the cause. In hindsight, it provides us with some important lessons from which to learn.

Ontario Premier Kathleen Wynne, who had been silent on PCEPA until the day after it came into force, issued a statement claiming that MacKay's bill posed danger to prostitutes. She admitted that she was out of her depth on the issue but did not provide evidence that her opinion was based on anything beyond personal bias. She was cheered on, nevertheless, by Toronto city councillors who, to this day, turn a blind eye to the prostitution carried out by businesses that their own bylaw department regulates through municipal licencing.

Ms. Wynne's government discounted recommendations from advocates that police should be encouraged to proactively investigate sex buyers as part of Ontario's 2016 'Strategy to End Human Trafficking'. When the province's Attorney General refused to budge on the issue, Lifeworthy's Director, John Cassells, requested that the government change the title of the document, saying, the strategy would not even slightly reduce the volume of human trafficking crimes against women and girls. That warning was validated by police reports in the years to follow.

The demand for sexual services grew to new heights in Ontario in large part because the men who buy sex faced relatively little resistance. But the province had no interest in that sort of enforcement. Pimp trials got the money and the spotlight. Police Human Trafficking units in the Golden Horseshoe became masterful in their investigations and Crown Attorneys received specialized training for such cases. Compared with other violent crimes, findings of guilt for human traffickers were achieved far less often.ⁱⁱⁱ Even when guilty verdicts were rendered, it did not seem to reduce the number of callous young men who desired a notorious reputation and were willing to exploit young women. While Ontario courthouses remain abuzz with human trafficking trials the province is still failing in protecting adults and minors from that crime.

Holding sex buyers accountable was relatively easy in the few cases when enforcement occurred. They returned a very high conviction rate but were unpopular and were met with resistance. In 2019, Ontario was reporting nearly double the national rate of human trafficking.^{iv} The notion that Canada can preserve prostitution while successfully combatting human sex trafficking remains an unfounded theory.

SURVIVOUR PERSPECTIVES

Building on the historical lessons contained in this brief, we now move onto testimony about the impact of prostitution as experienced by one of our Lifeworthy team members. Sascha Eaton left the sex industry a decade ago and distanced herself from associates who remained actively involved in that lifestyle. It's important to note her present proximity to the subculture of prostitution and why her testimony may be very different compared to a woman who remains tied to it.

When a young woman becomes a provider of commercial sex, she will normally become climatized to that new environment quite quickly. She will experience an identity shift. The degree to which her new environment is foreign to her, the greater that identity shift will be. It will cause her to view the world through an entirely different lens. As long as she remains in the sex trade, her perceptions will be skewed: Laws will seem cruel and police officers will be seen as enemies. In her view, those of us in 'the square world' are missing all the excitement and quick money that she experiences. She will even become desensitized to the recurring abuse that is part and

parcel of prostitution. The things that expose a woman to, and keep her enmeshed in, this underworld should rightfully evoke compassion. But those with abnormal mindsets and anti-social behaviors cannot appropriately guide us on matters of justice.

Ms. Eaton became immersed in the subculture of the sex trade when she was a minor and remained in it for more than five years. There was a time when she could not speak honestly about her experiences, but it's been a long time since she was in that place. She testifies that the sex trade is filled with young women being subjected to physical violence and emotional trauma, and that many become reliant, as she did, on illicit substances to cope. "Relatively few women who have walked in my shoes," she confides, "Can continue claiming that prostitution is empowering, compared to the countless others who reflect on their experiences as profoundly destructive and life-altering."

At this present time, legal teams are preparing for a Charter challenge of key PCEPA provisions. The action is being taken by a coalition of pro-prostitution agencies largely informed by activists who are enmeshed in the subculture of prostitution. The coalition identifies itself as 'Canadian Alliance for Sex Work Law Reform'. The impugned Criminal Code sections are:

- 213(1) (Stopping/impeding traffic)
- 213 (1.1) (Communicating in a public place)
- 286.1 (1) (Obtaining sexual services for consideration)
- 286.2 (1) (Material benefit from sexual services)
- 286.3 (1) (Procuring/controlling/influencing a prostitute)
- 286.4 (Advertising sexual services)

PCEPA grants generous legal immunity for anyone who violates the above provisions that pertain to the selling of one's own sexual services⁴. There would be no overall benefit to prostitutes, who operate independently or under duress, if the impugned sections were to be struck down. The true beneficiaries of these demands would, in fact, be the men who buy sex and the pimps who traffic women and girls in the sex trade. This illustrates the illogical guidance of pro-prostitution activists and underscores the critical importance of the voices of prostitution survivors, like Ms. Eaton.

OBSERVATIONS FROM OUR PROGRAMS

Lifeworthy's programs for young women provides social support and spiritual care for those who have exited the sex trade or are expressing a desire to do so. While not all sex trade activities necessarily involve sexual services, almost all the young women we have worked with, including former exotic dancers and 'cam girls', were involved in prostitution. The majority of these young women also experienced human trafficking and other forms of violence.

Some of these young women entered the sex trade as a last-resort decision in a desperate financial situation, while others were enticed for a variety of other reasons. "The common thread is vulnerability," Ms. Eaton explains, "The sex trade is an industry designed to prey on vulnerable women and girls". Many of the young women we supported faced their recovery with great resolve through several years of debilitating anxiety, mood disorders, and self-destructive behaviors. A few found the challenge of recovery so difficult and painful that they returned to prostitution or ended their lives.

We acknowledge that young men are also commercially sexually exploited, but in Canadian society, it occurs far less frequently, and their experiences are not the same. Studies suggest that the male hormone, testosterone, causes behavior intended to dominate; to enhance one's status over other people^{vi}. That corresponds with the reality that males in the sex trade are rarely exploited in the same manner as females.

Lifeworthy also supports parents and other family members of daughters who have entered the sex trade. Since launching the Parents Hope program six years ago, we have had 80 parent participants who represent 56 adult and minor-age daughters.

Most of the participants in our Parents Hope program reported radical changes in the behaviour of their daughters and quality of relationship they experience with them. For parents who saw their daughters, at least occasionally and in-person, during their sex trade involvement, it was common for them to observe physical injuries on the bodies of their daughters, especially bruising on the face, head, torso and legs.

The daughters first became involved in the sex trade between the ages of 12 and 20 years old. Our latest statistics show the average age of entry was 15.7 years. Given the strength we observed in many of the families in our program, we speculated that the true average age of entry may be younger than our findings indicate. Ontario's York Regional Police, for example, determined that the average age of entry into prostitution based on their 2012 – 2017 investigations was 14.8 years old.

Some of the Parents Hope daughters confided in their parents about threats they received and acts of violence that were perpetrated against them. But all our parent participants described deteriorating mental and physical health of their daughters and, more often than not, suicide attempts and heavy use of alcohol and illegal drugs. 11 percent (six out of 56) tragically passed away. Their causes of death include suicide, homicide and what is believed to be accidental drug overdose. Without exception, the girls and women we know, who have been involved in prostitution, have sustained severe and debilitating harm.

IN CONCLUSION

The growing crime of human sex trafficking in Canada especially victimizes children and youth,^{vii} despite much stiffer legal consequences for buying sex with minors. Whether through easing of laws or lack of enforcement, normalizing the purchase of sexual services leads to increased exploitation^{viii}.

Our observations are consistent with Justice Minister MacKay's assertion, that "prostitution is inherently dangerous and exploitative". Prostitution in Canada is currently destroying the lives of countless women and children. It is not reasonable to believe that Canada can be the first country in the world to turn prostitution into a viable workplace option through decriminalizing or legalizing the activity. If you work toward further normalizing this vile industry, you can reasonably expect the demand for young prostituted Canadians to increase.

This is a human rights question that you must answer carefully and correctly. A vote to decriminalize the sale of sexual services is a vote for misogynists who callously exploit women

and girls to serve their own interests. Instead of diminishing the importance of the Protection of Communities and Exploited Persons Act, we urge you to work with the provinces to ensure its appropriate implementation and enforcement.

We thank you for your diligence on this extremely important undertaking.

The Lifeworthy Team

ⁱ *“Moving abruptly from a situation where prostitution is regulated to a situation where it is entirely unregulated would be a matter of great concern to many Canadians.”* Chief Justice, Beverly McLachlin, SCC December 20, 2013.

ⁱⁱ We are using the terms ‘prostitute’ and ‘prostitution’ in this document in place of the less precise term ‘sex work’. The former terms refer specifically to the exchange of sexual services for consideration and the later is generally understood to also include activities that are not prohibited under federal law and therefore less relevant to a review of PCEPA.

ⁱⁱⁱ Statistics Canada reported that just 7% of human trafficking charges that came before the courts in 2018/2019 resulted in a finding of guilt Trafficking in Persons in Canada, 2019, Statistics Canada

^{iv} *“Increases in the number of incidents reported in recent years [in Ontario] may be indicative of an increase in the occurrence of this crime...”* Trafficking in Persons in Canada, 2019, Statistics Canada

^v 286.2 (1) (Material benefit from sexual services) Immunity would not apply if they were also acting in a pimping role, as some prostitutes do. The same would be true regarding 286.3 (1) (Procuring/controlling/influencing a prostitute).

^{vi} Testosterone Dominance in Men, Allan Mazur & Alan Booth, Behavioural and Brain Sciences, Vol 21, Issue 3, June 1998, pp. 353-363.

^{vii} *“Domestic sex trafficking is a growing crime in Canada, with the majority of victims being children and youth.”* Sex Trafficking of Women and Girls in a Southern Ontario Region, Canadian Journal of Behavioural Science, Kyla Baird, Kyla P. McDonald, and Jennifer Connolly, 2020

^{viii} *“By tolerating or legalizing prostitution, the state, at least passively, is contributing to the demand for [prostitution and sex trafficking] victims.”* Prostitution: Causes and Solutions, The State – The Third Component of the Demand, p.4, Donna M. Hughes, 2004

[LIFEWORTHY](#) is a project of the Christian charity, [SIM \(Serving In Mission\) Canada](#). Our programs provide support and spiritual care for individuals impacted by the sex trade and/or and their family members. Most of our participants reside in the Greater Toronto Area, but we also support families who live in other regions across Canada. The cases we deal with usually involve prostitution and human trafficking.

Lifeworthy is entirely funded by the private sector and have no political stake or financial interest in creating this brief. The document was co-authored by Sascha Eaton and John Cassells.

SASCHA EATON is a former stripper and prostitute with more than five years experience in that segment of society. In her words, she “was coerced into the sex trade by a charming and manipulative man at seventeen years old.” After exiting that industry, Sascha proactively embarked on a lengthy recovery process to address the deep psychological trauma resulting from her involvement in it. Her battles included conquering addictions that resulted from habitual self-medication. She returned to school and earned a degree in Criminology. Sascha is based the Halton region of Ontario and is employed in the not-for-profit sector as a Peer Advocate and Program Facilitator for young women in recovery after exiting the sex trade. She also volunteers with Lifeworthy and is a policy advisor for Men Ending Trafficking.

JOHN CASSELLS is the Director of Lifeworthy, a Toronto-based project of the Christian mission organization, SIM (Serving in Mission) Canada. He is also a board member and was the founding Director of the advocacy and awareness organization, Men Ending Trafficking Canada. he has worked with vulnerable and exploited young people since entering youth work in 1984. Over the years, John has designed and directed a variety of programs to help young people break free from prostitution, exploitative relationships, addictions, and homelessness. On July 8, 2014, he testified before the Canadian House of Commons Standing Committee on Justice and Human Rights concerning Bill C-36 to enact the Protection of Communities and Exploited Persons Act. Subsequent to that, he provided input, numerous times to governments at the municipal and provincial levels about the sex trade and, specifically, measures to reduce violence and exploitation.